

INITIAL STATEMENT OF REASONS AND PUBLIC REPORT
DEPARTMENT OF PESTICIDE REGULATION

Title 3, California Code of Regulations
Amend Section 6452.2
Pertaining to Field Fumigant Emission Limits

This is the Initial Statement of Reasons required by Government Code section 11346.2, and the public report specified in section 6110 of Title 3, California Code of Regulations (3 CCR). Section 6110 meets the requirements of Title 14, CCR section 15252, and Public Resources Code section 21080.5 pertaining to certified state regulatory programs under the California Environmental Quality Act.

SUMMARY OF PROPOSED ACTION/PESTICIDE REGULATORY PROGRAM ACTIVITIES AFFECTED

The Department of Pesticide Regulation (DPR) proposes to amend 3 CCR section 6452.2. The pesticide regulatory program activities that will be affected by the proposal are those pertaining to environmental monitoring and pesticide enforcement. In summary, the proposed action would revise the total pesticide (fumigant and nonfumigant) volatile organic compound (VOC) emissions benchmarks in the Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, and Ventura ozone nonattainment areas (NAAs)¹, and will delay fumigant limits and allowances in all ozone NAAs except Ventura until 2011.

SPECIFIC PURPOSE AND FACTUAL BASIS

State and federal law mandates that DPR protect human health and the environment by regulating pesticide sales and use and by fostering reduced-risk pest management.

The proposed regulatory action pertains to seven of the most widely used fumigant active ingredients--methyl bromide, 1,3-Dichloropropene (1,3-D), chloropicrin, dazomet, sodium tetrathiocarbonate, and pesticides that generate methyl isothiocyanate (MITC), such as metam-sodium and potassium N-methyldithiocarbamate (also known by the chemical name metam-potassium). All these fumigants can only be applied under permit from the county agricultural commissioner (CAC).

Before planting, farmers use fumigants to control disease, weeds, and pests in the soil. Fumigants are also used to control pests in structures and harvested commodities. Measured in pounds, fumigants represent approximately 20 percent of all agricultural pesticides used in California. Because fumigants are usually applied at a rate of several hundred pounds an acre and are very volatile, fumigants account for an even higher proportion of VOCs emitted by pesticides. Statewide, more than half of pesticide VOCs come from fumigant applications. In some areas of the state, up to three-quarters or more of the pesticide VOCs are from fumigants.

¹ For the purposes of this discussion, volatile organic compounds are the same as reactive organic gases (ROG) referred to in State ozone air quality planning documents.

VOCs can contribute to the formation of ground-level ozone, which is harmful to human health and vegetation when present at high enough concentrations. The federal Clean Air Act requires each state to submit a State Implementation Plan (SIP) for achieving and maintaining federal ambient air quality standards for ozone. An ozone NAA is a geographical region in California that does not meet either federal or state ambient air quality standards. The U.S. Environmental Protection Agency (U.S. EPA) designates NAAs in Title 40, Code of Federal Regulations (CFR) section 81.305. In 1994, California's Air Resources Board (ARB) and DPR developed a plan to reduce pesticidal sources of VOCs in five NAAs--Sacramento Metro, San Joaquin Valley, South Coast, Southeast Desert, and Ventura--as part of the California SIP to meet the one-hour ozone standard.

In 2006, a federal court found that DPR had violated this pesticide element of the 1994 SIP and ordered DPR to adopt regulations by January 26, 2008, to achieve a 20 percent reduction of pesticide VOC emissions from 1991 levels in the five NAAs. (Court Order concerning remedies, No. Civ. S-04-822 [E.D. Cal. filed April 6, 2006], enforcing *El Comite Para el Bienestar de Earlimart v. Helliker*, 416 F. Supp. 2d 912 [E.D. Cal. 2006].) Regulations (Office of Administrative Law File No. 2007-1219-01S) were developed and adopted January 25, 2008, to comply with the court order. Those regulations, in part, require the Director to establish field fumigant VOC emission limits for NAAs that exceed 80 percent of the emissions benchmarks to make sure those benchmarks are not exceeded. The benchmarks are based on each NAA's emissions in 1991, and are set 20 percent below that level.

On July 18, 2008, U.S. EPA revised California's SIP by reducing the amount of the VOC emission reductions required from pesticides in Ventura in 2008 by 1.3 tons per day (tpd) (73 Federal Register 41277, 41278). That SIP revision steadily phases that 1.3 tons of reductions back in, so that by 2012 the 20 percent pesticide VOC reduction goal in Ventura is reinstated.

On August 20, 2008, the Ninth Federal Circuit Court of Appeals vacated the federal district court's order to achieve a 20 percent reduction from 1991 emissions in the five NAAs. [*El Comite Para El Bienestar de Earlimart v. Warmerdam*, ___F.3d___, 2008 WL 3853351, C.A. 9 (Cal.) August 20, 2008 (No. 06-16131, 06-16000)]. On September 3, 2008, DPR amended section 6452.2 (Office of Administrative Law File No. 2008-0828-01S) to make it consistent with the phase-in of 1.3 tons per day in Ventura approved by U.S. EPA.

To comply with the lower court's order, current regulation section 6452.2 sets the benchmarks for total VOC emissions (fumigant and nonfumigant) 20 percent below 1991 levels. The proposed benchmarks are more consistent with our obligation under the 1994 SIP which required a reduction from the 1990 base year of 20 percent in all NAAs except for the San Joaquin Valley NAA where a 12 percent reduction was required (62 Fed. Reg. 1150, 1170 (January 8, 1997)). DPR proposes to amend section 6452.2 by using 1990 emissions, instead of 1991, to establish the benchmarks. Additionally, the benchmark for the San Joaquin Valley ozone NAA is being revised to reflect a 12 percent reduction of pesticide VOC emissions from the 1990 levels. While DPR proposes to make the benchmarks no more stringent than the SIP, it is taking other actions to reduce pesticide VOC emissions, particularly in the San Joaquin Valley.

In November 2007, ARB submitted a new SIP for the San Joaquin Valley that included a pesticide element reflecting the 20 percent reduction from 1991 levels that the district court ordered. That submission has not yet been approved by U.S. EPA. The State is proposing a replacement for the pesticide element of that November 2007 submission that is consistent with the proposed regulations. Opportunity to comment and hearings on the new pesticide element are being provided in conjunction with this rulemaking. See Attachment A for the proposed text that is intended to replace the pesticide element of the 2007 SIP, and staff report to be submitted to U.S. EPA with that proposal.

The benchmarks in section 6452.2 serve to trigger implementation of an area-wide fumigant limit and allowance system which would cap fumigant emissions in an area and allocate emissions to growers through use permit conditions. This fumigant allowance system is triggered in an area if its overall emissions exceed 80 percent of the benchmark level. Allocating fumigants in order to control overall pesticide VOC emissions was a measure put in place to achieve immediate remedial action to meet the court order. Administering the allowance system requires substantial state and local government resources. Thus, this mechanism should only be used if no other measures will achieve emission reductions. Measures such as restrictions on fumigation methods and reformulation of nonfumigant pesticides are a more efficient use of regulatory resources. In addition, measures to reduce nonfumigants should be implemented before this mechanism in the San Joaquin Valley where nonfumigants emissions are a substantial part of the total emissions. The fumigant limit and allowance process could nearly result in the elimination of fumigant use without achieving the desired reductions.

Subsection 6452.2(a) requires the Director to establish a field fumigant VOC emission limit in the Annual Volatile Organic Compound Emissions Inventory Report pursuant to section 6452.4 for any ozone NAA that exceeds 80 percent of the emission benchmarks during the May 1 through October 31 time period. This subsection does not apply to the Ventura ozone NAA until 2012. Instead, existing subsection 6452.2(c), mandates the fumigant limit and allowance process in Ventura in 2008 through 2011. Setting fumigant emission limits under 6452.2(a) in turn triggers the requirement for field fumigant permittees to provide information justifying a specific request emission allowances request to DPR, for DPR to determine and assign an allowance to each individual permittee, and for the CAC to use the permit process to track and enforce those allowances pursuant to sections 6452.3 and 6452.4. The proposed amendment to subsection (a) would not require implementation of this process before 2011. Under existing law, subsection (a) takes effect in 2009.

As explained below, all areas, other than Ventura, are expected to achieve the adjusted benchmarks due to existing restrictions on fumigation methods, reductions in nonfumigant emissions due to the introduction of low VOC products, and other developments. Thus the limits and allowance process in subsection 6452.2(a) is unnecessary in the near term. Nevertheless, subsection (a) could still trigger this process in San Joaquin Valley and Southeast Desert, because emissions in those areas may exceed 80 percent of their benchmark levels, though not the benchmarks themselves. The substantial commitment of resources necessary to implement the field fumigant limits and allowances in San Joaquin Valley and Southeast Desert justifies delaying the implementation of

subsection (a) for the next two years, when that process will not be needed to achieve the benchmark goals.

DPR has prepared an estimate of VOC emissions from agricultural and commercial structural pesticide applications between 1990 and 2007. The *Update to the Pesticide Volatile Organic Compound Inventory: Estimated Emissions 1990-2006, and Preliminary Estimates for 2007* shows that all ozone NAAs, with the exception of Ventura, had emissions below the proposed benchmarks in 2007. Ventura's emissions still exceeded the benchmark it must achieve under the SIP by 2012. Due to several actions, DPR expects that emissions will decrease in all areas in future years. DPR expects VOC emissions from fumigants to decrease in future years due to the fumigation method requirements of sections 6447.3, 6448.1, 6449.1, 6450.1, 6450.2, 6451.1, and 6452. These sections require the use of "low-emission" fumigation methods beginning in 2008 during the May-October peak ozone season of the San Joaquin Valley, Southeast Desert, and Ventura ozone NAAs. While some low-emission methods are standard practice, most are not. Low-emission fumigation methods reduce fumigant emissions by one-third or more on a per acre basis compared to most practices prior to 2008. In addition, the U.S. Department of Agriculture, University of California, and others are conducting several research projects to develop new fumigation methods that further reduce emissions. Improved tarpaulins, GPS-guided application systems, soil amendments, and other techniques will likely achieve greater reductions in use and emissions of fumigants in a few years. The use of low-emission fumigation methods will particularly assist the Southeast Desert and Ventura ozone NAAs where fumigants contribute the majority of pesticide VOC emissions. Emissions will also decrease in the San Joaquin Valley ozone NAA where fumigants account for approximately one-third of the pesticide VOC emissions.

Additional reductions are expected in all ozone NAAs, particularly the San Joaquin Valley, with the introduction of nonfumigant products with lower emission potentials (VOC content). For example, DPR recently approved a new, lower emitting chlorpyrifos product for use in California. Chlorpyrifos products are the highest pesticide VOC contributors in the San Joaquin Valley ozone NAA, accounting for 13 percent of the emissions in 2007. Lorsban 4E is the most commonly used chlorpyrifos product, accounting for approximately 70 percent of chlorpyrifos VOC emissions, and 9 percent of all pesticide VOC emissions in the San Joaquin Valley. In August 2008, DPR registered Lorsban Advanced as a replacement for Lorsban 4E. Lorsban Advanced has an emission potential of 18 percent, while Lorsban 4E has an emission potential of 50 percent. Significant VOC reductions due to this new product will begin in July 2009 when several major uses of Lorsban 4E will no longer be allowed. Once Lorsban Advanced has completely replaced Lorsban 4E, VOC emissions from chlorpyrifos products could decrease approximately 45 percent on a per acre basis due to the difference in emission potentials.

DPR is working with the Natural Resources Conservation Service's Environmental Quality Incentives Program (EQIP) to provide matching funds to growers for practices that reduce pesticide VOC emissions. EQIP can provide funds for a variety of practices, such as switching to lower emission fumigation methods or switching to products with lower emission potentials. For example, most pesticides formulated as emulsifiable concentrates have high emission potentials because they contain solvent VOCs. Emulsifiable concentrates are major contributors to pesticide VOC emissions in the San Joaquin Valley. Many pesticides have alternative formulations with

lower emission potentials, but some are not commonly used due to greater cost or handling difficulties. EQIP could provide funds to offset these disadvantages. EQIP will likely be able to provide several million dollars in matching funds and assist with the adoption of existing technologies and products that reduce VOC emissions.

Other actions by DPR and U.S. EPA will likely reduce VOC emissions indirectly. The two agencies are working to mitigate exposure to fumigants. The mitigation measures will include buffer zones, worker protection requirements, and other measures that will likely further reduce use and emissions of fumigants. Some of the measures are scheduled to take effect in 2009, and others in 2010.

The Ventura ozone NAA has not yet met its benchmark for 2012. The proposed amendments do not delay the requirement to implement fumigant emission allowances in Ventura, because those limits are necessary to assure the targeted reductions will be achieved. Most Ventura growers adopted low-emission fumigation methods prior to 2008, so the application restrictions in the regulations will not achieve sufficient additional reductions to meet the benchmarks unless permittees choose to switch from methyl bromide to fumigants with lower VOC content. Further, nonfumigant pesticides (including Lorsban) contribute little to Ventura VOC emissions, so the developments expected to decrease nonfumigant emissions will have little effect in Ventura. In order to assure that Ventura attains its final phased-in benchmark for 2012, the field fumigant emission limits and allocation scheme for Ventura through that year has been retained.

DPR plans additional rulemaking for VOCs in 2010. DPR will continue to track VOC emissions and reassess the need for fumigant limits and allowances at that time. In 2008, DPR gave interim approval of several fumigation methods not described in the regulations, as provided under section 6452. The interim approvals expire in three years, and DPR must adopt regulations before May 2011 in order to allow continued use of these fumigation methods. That rulemaking will provide an opportunity to determine the need for fumigant limits and allowances in 2011 and future years.

CONSULTATION WITH OTHER AGENCIES

DPR consulted with the California Department of Food and Agriculture during the development of the text of proposed regulations, as specified in Food and Agricultural Code section 11454, and the February 6, 1992, Memorandum of Agreement that was developed per Food and Agricultural Code section 11454.2.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION

DPR has not identified any feasible alternatives to the proposed regulatory action that would lessen any adverse impacts, including any impacts on small businesses, and invites the submission of suggested alternatives.

ECONOMIC IMPACT ON BUSINESSES

The proposed regulations will not have a significant adverse economic impact upon business. The document relied upon to make this determination is listed in the "Documents Relied Upon" section of this initial statement of reasons and is available from DPR.

IDENTIFICATION OF ANY SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECT THAT CAN REASONABLY BE EXPECTED TO OCCUR FROM IMPLEMENTING THE PROPOSAL

The proposed regulations would revise the benchmarks to be consistent with the pesticide emission reductions required by the SIP, instead of the interpretation of the SIP reflected in the overturned court order and the existing regulations promulgated under that order. The court ordered a 20 percent reduction from 1991 emission levels in all NAAs. The SIP requires a 20 percent reduction from 1990 emission levels in the Sacramento Metro, South Coast, Ventura, and Southeast Desert areas, and a 12 percent reduction from 1990 levels in the San Joaquin Valley area. This change would lower (make more stringent) the Sacramento Metro benchmark by 0.2 tpd, raise (make less stringent) the South Coast benchmark by 4.6 tpd, raise the Southeast Desert benchmark by 0.3 tpd, raise the San Joaquin Valley benchmark by 2.1 tpd, and raise the Ventura benchmarks by 0.4 tpd. The proposed change to section 6452.2 would also delay the possibility of triggering a fumigant limits and allowance system until 2011 in all areas except Ventura.

The purpose of the proposed regulation is to meet our obligation to reduce pesticide emissions, but to do so in a way that avoids placing an unreasonable or disproportionate burden on fumigant pesticide users, particularly in the San Joaquin Valley, making them responsible for all pesticide emissions, and unnecessarily triggering the fumigant limit and allocation mechanism that would result in an inefficient use of state and local regulatory resources. DPR was forced to promulgate the fumigant limit and allowance system in existing regulations to assure it complied with the court order enforcing the SIP. The fumigant limits in existing law have not been implemented, with the exception of those in Ventura left in place by this proposal. While this proposal revises the benchmarks to be less stringent than the court ordered in error, the revised benchmarks are as stringent as the SIP itself. The fumigant limit and allowance system in this proposal is an additional mechanism to assure the SIP emission reduction targets are met.

Sacramento Metro and South Coast

The proposed regulation cannot reasonably be expected to result in a significant adverse effect in the Sacramento Metro and South Coast ozone NAAs. Both areas are well below the existing benchmarks and the change of the benchmarks is not reasonably expected to have any effect on emissions or practices. DPR expects the changes to the cropping patterns and pest management practices that led to the current emission levels in these areas will continue.

Ventura

Potential Adverse Impacts

The proposed regulation may have an adverse impact on ozone formation in Ventura County. The proposal makes the benchmarks in Ventura 0.4 tpd less stringent. In recent years, pesticide emissions in Ventura County have been above existing benchmarks, thus the proposal could allow up to 0.4 tpd more VOC emissions from fumigant pesticides than would have been allowed under existing regulations. VOCs react with other substances in the air to form ground-level ozone. The potential effect would be minor. Methyl bromide accounted for about 28 percent of the 2007 pesticide VOC emissions in Ventura County. Methyl bromide is preferred by Ventura County's strawberry growers, a major crop in Ventura County, because it is more effective than alternative fumigants, such as chloropicrin or 1-3, D. Methyl bromide, though defined as a VOC by federal law, is virtually nonreactive. Therefore, any resulting increase in pesticide VOCs in Ventura County would probably consist in significant part of a VOC that does not appreciably contribute to ozone. The cumulative impacts of a small increase in reactive pesticide are accounted for in the ARB's ozone air quality planning, which manages overall emissions of ozone precursors in Ventura.

The increase in overall emissions that may occur in Ventura under the proposed regulation cannot reasonably be expected to have an adverse effect on risks of toxic exposure to pesticides. The benchmarks that would be amended only to control total area-wide emissions of VOCs averaged over a six-month period. Risk of toxic exposure to the regulated substances is a function of air concentration and potential for exposure to that concentration at a particular place and time. U.S. EPA, DPR, and the CACs each have complimentary regulatory programs in place to directly mitigate these risk factors. This regulatory proposal will not significantly add to, or detract from, the effectiveness of those programs.

The proposed regulation cannot reasonably be expected to have adverse impacts on ozone depletion, climate change, water quality, resource/energy use, solid or hazardous waste disposal, or agricultural resources.

Discussion of alternatives or mitigation measures and overriding considerations

DPR intends to revise the benchmark in Ventura County in order to be consistent with its SIP obligations, mitigate the economic cost to growers of implementing the fumigant limit and allowance system by an estimated savings of \$7.5 million in 2012, and to avoid unnecessary pressure on farmland in Ventura. While the change would have at worst a minor effect on ozone formation, 0.4 tpd of fumigant pesticide emissions represents hundreds of acres of historically fumigated acreage on which high value crops, like strawberries, are grown. About 25-35 percent of currently fumigated acres are already within various city limits. Mitigating the economic impact and risk of losing acreage under cultivation overrides the proposal's relatively minor adverse environmental impact.

There are no other alternatives or further mitigation measures that could be implemented which would still achieve the proposal's purpose.

Southeast Desert

The proposal would make the Southeast Desert benchmark 0.3 tpd less stringent and delay any implementation of the fumigant limit and allowance mechanism until 2011. This, theoretically, could allow more VOC emissions from fumigant pesticides, up to 0.3 tpd in the long term, than would have been allowed under existing regulations. VOCs react with other substances in the air to form ground-level ozone. However, the proposed regulation cannot reasonably be expected to have a significant adverse environmental impact in Southeast Desert on ozone formation.

However, VOC emissions are not reasonably expected to increase by 0.3 tpd in the near term but, in fact, will decrease compared to current levels, despite the benchmark change. From 2005 to 2007, years in which no benchmarks were in effect, pesticide VOC emissions in the Southeast Desert were between about 0.2 tpd and 0.3 tpd lower than would be required by the proposed benchmark. The fumigant application method restrictions in existing regulations that became effective in Southeast Desert in 2008 will further reduce emissions.

Regarding potential long-term impacts, 0.3 tpd is only about a third of one percent of current VOC emissions in the Southeast Desert.² Nor is 0.3 tpd cumulatively significant because it is accounted for in ARB's ozone air quality planning, which manages overall emissions of ozone precursors in the Southeast Desert NAA.

Second, the VOCs emitted by all agricultural pesticide use in the Southeast Desert NAA are mostly MITC (about 42 percent) and methyl bromide (about 22.2 percent). MITC has very low photochemical reactivity (potential to contribute to ozone formation), and methyl bromide is virtually nonreactive. Thus, any emissions allowed by the proposal would be mostly of VOCs with little or no potential to actually contribute to ozone formation.

The proposal is not reasonably expected to have a significant adverse environmental impact in the Southeast Desert on toxic exposure to pesticides, ozone depletion, climate change, water quality, resource/energy use, solid or hazardous waste disposal, or agricultural resources.

San Joaquin Valley

Potential Impacts

The proposed regulation could have a potential adverse impact on ozone formation in San Joaquin. The proposal would make the San Joaquin Valley benchmark 2.1 tpd less stringent and delay any implementation of the fumigant limit and allowance mechanism until 2011. Thus, it could allow more VOC emissions from fumigant pesticides, up to 2.1 tpd in the long term, than would have been allowed under existing regulations. VOCs react with other substances in the air to form ground-level ozone.

² The Southeast Desert area controlled in existing regulations is comprised of the Antelope Valley, Western Mojave Desert, and Coachella Valley 8-hour nonattainment areas. *Emission Inventory Output Tables* at 3. Total ROG emissions in those areas are about 90 tpd.

DPR expects pesticide VOC emissions in the San Joaquin Valley NAA in the short term to continue to decrease, and to be below the proposed benchmark. In the past four years, without any benchmarks in effect, pesticide VOC emissions in San Joaquin fluctuated from 17.3 tpd to as high as 21.4 tpd in 2006 and back down to 17.3 tpd in 2007. Emissions in 2006 are not typical but were the result of increased use of a nonfumigant pesticide in response to an unusual pest pressure. Emissions in 2007 were 0.8 tpd better than required by the proposed benchmark, and missed the existing benchmark by only 1.3 tpd. Further, DPR expects emissions in 2008 and thereafter to be lower than previous years. New regulations went into effect in 2008 that restrict fumigant applications in San Joaquin Valley to low emitting methods and technologies. Last year fumigants were 36 percent of the pesticide VOC emissions in San Joaquin.

Though the proposed benchmark could allow as much as 2.1 tpd additional VOC emissions if fumigant limits are necessary in 2011, emissions should in fact continue to decline in the long term due to introduction of Lorsban Advanced, EQIP, and fumigant mitigation, as discussed above.

No significant adverse environmental impacts on toxic human exposure to pesticides, ozone depletion, climate change, water quality, resource/energy use, solid or hazardous waste disposal, or agricultural resources in San Joaquin can reasonably be expected to result from the proposed action.

Discussion of alternatives or mitigation measures and overriding considerations

DPR's proposed change to existing regulations for the San Joaquin Valley is meant to be consistent with its SIP obligations, reduce the disproportionate responsibility for overall pesticide emission reductions the existing regulations imposes on fumigant pesticides, reduce the disruption to growers resulting from imposing fumigant limits that are unnecessary, and avoid the significant burden on state and local government resources of implementing that system in the San Joaquin Valley ozone NAA³. These considerations override the potential adverse effect on ozone formation discussed above.

Under the existing regulations, if there were another high-use year like 2006, DPR would be required to nearly eliminate all fumigant use in San Joaquin Valley. Fumigants have consistently been about a third of emissions.

Even under the proposed, less stringent benchmark, and if emissions continue to decline in the near term as expected, DPR still needs to delay the effective date of the benchmark to avoid unnecessary implementation of the fumigant limit and allowance system. Though emissions will likely meet the proposed benchmark, they will probably still exceed the trigger to implement the allowance system, which is 20 percent lower than the benchmark itself. Thus, without delaying the benchmarks, DPR and the CACs will have to implement the allowance system, even though it is not necessary.

³ DPR estimates that implementation of the fumigant limit and allowances in San Joaquin Valley would cost DPR and CACs approximately \$1.08 million over two years. The resources allocated to implement this program at the state level would be available to develop and implement measures to reduce nonfumigant emissions.

In San Joaquin, DPR intends to obtain VOC emission reductions, beyond what can be achieved by fumigant application method restrictions, from nonfumigant controls rather than the fumigant limit and allowance system because they are far more efficient and equitable. While DPR has made significant progress toward implementing nonfumigant VOC emission controls, it is not ready to include such measures in this proposal, and thus is not considering them as mitigation.

There are no other alternatives or mitigation that would serve the proposal's purpose while reducing the potential adverse environmental impact.

EFFORTS TO AVOID UNNECESSARY DUPLICATION WITH FEDERAL REGULATIONS

The proposed regulatory action does not duplicate or conflict with any regulations contained within the CFR. There are no regulations within the CFR that address this issue.

As noted in this Initial Statement of Reasons, the federal Clean Air Act requires each state to submit an SIP for achieving and maintaining federal ambient air quality standards, including the standard for ozone. In 1994, ARB and DPR developed a plan to reduce pesticidal sources of VOCs in NAAs as part of the California SIP to meet the one-hour ozone standard.

In April 2004, U.S. EPA issued a more stringent eight-hour ozone standard, likely requiring additional VOC reductions. California will prepare a new SIP for the eight-hour standard, and will need additional VOC reductions from all sources to meet the new ozone standard.

DOCUMENTS RELIED UPON

1. Update to the Pesticide Volatile Organic Compound Inventory: Estimated Emissions 1990- 2006, and Preliminary Estimates for 2007. November 5, 2008. Memorandum from Rosemary Neal to Randy Segawa, Environmental Program Manager, DPR.
2. Air Resources Board's Executive Order S-07-003 Revised Proposed Revision to the Pesticide Element of the 1994 Ozone SIP for the Ventura County Nonattainment Area, November 30, 2007.
3. Consultation on Draft Regulations on Fumigants. California Environmental Protection Agency, Agencywide Economic Analysis Unit, Air Resources Board. Memorandum from Stephen Storelli to Linda Irokawa-Otani, Regulations Coordinator, DPR. October 9, 2008.